

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIE LEE JEFFERSON,

Plaintiff,

vs.

ART VOGT, ET AL.,

Defendants.

3:04-CV-00687-LRH (VPC)

REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

July 6, 2007

This Report and Recommendation is made to the Honorable Larry R. Hicks, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. Before the court are two of plaintiff's motions filed in this action (#92 and #93), each of which contain threatening statements. The court recommends that plaintiff's motions be stricken and that he be admonished that he will be sanctioned for similar behavior in the future.

I. HISTORY & PROCEDURAL BACKGROUND

Plaintiff Willie Lee Jefferson ("plaintiff"), a *pro se* prisoner, is currently incarcerated at Ely State Prison ("ESP") in the custody of the Nevada Department of Corrections ("NDOC") (#13). Plaintiff brings his complaint pursuant to 42 U.S.C. § 1983, alleging that defendants violated his Eighth Amendment right against cruel and unusual punishment by housing him in disciplinary segregation based on his mental illness (#9). Plaintiff names as defendants Michael Budge, former Nevada State Prison ("NSP") Warden; James Baca, NSP Assistant Warden; Art Vogt, NDOC Mental Health Director; and Ted D'Amico, NDOC Medical Director. *Id.*

On November 17, 2006, plaintiff filed a motion for enlargement of time (#92). Attached

1 to the plaintiff's motion was a "Verification," which contained a partial letter to the undersigned
2 Magistrate dated November 13, 2006. *See* Exhibit A. In the letter, plaintiff uses vulgar language
3 and makes threats against the Magistrate, her husband, and her children. *Id.*

4 On November 22, 2006, plaintiff filed an "Opposition to Defendants' motion for leave
5 to file in camera documents in support of summary judgment (docket no. 82)" (#93). Within the
6 text of plaintiff's motion were more threats and vulgar language, including a threat that something
7 would happen to the undersigned Magistrate "on the way home from the court house." *See*
8 Exhibit B.

9
10 The court recommends that these pleadings be stricken from the record. Furthermore, the
11 court warns plaintiff that should he continue this type of threatening behavior, he will be
12 sanctioned. These sanctions could include monetary sanctions, striking a motion or pleading,
13 dismissal of his entire case, or sanction from filing actions in federal court altogether. The court
14 will not tolerate such behavior from litigants.

15 16 III. CONCLUSION

17 Based on the foregoing and for good cause appearing, the court concludes that plaintiff
18 has submitted documents containing inappropriate language and threats to this court. The
19 plaintiff is admonished that he will incur sanctions should this behavior occur in the future.

20
21 The parties are advised:

22 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice,
23 the parties may file specific written objections to this report and recommendation within ten days
24 of receipt. These objections should be entitled "Objections to Magistrate Judge's Report and
25 Recommendation" and should be accompanied by points and authorities for consideration by the
26 District Court.
27
28

IV. RECOMMENDATION

DATED: July 6, 2007.

Valerie P. Foster
UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above statements are essential to the accuracy of my own (Personal Knowledge). As to any such matters stated upon information or belief I swear that I believe them to be the correct. (PURSUANT TO: 28 U.S.C. § 1746 and 18 U.S.C. § 1621) dated this ~~12~~¹³th of November 2006

executed at Elmhurst prison

P.O. Box 1989

Elmhurst, IL 60120

Michelle L. Jefferson #12122

William Lee Selferson #12123

P.O. Box 1989

Nov. 13/2006

Magistrate Judge Voltaire P. Cook

Tasha Bitch I want to know how can you be a judge and show hatred (prejudice) towards African American, what he fuck you when you was coming up as a child and that why you hate African Americans Oh Bitch I hope when you go home I hope that you the your husband that if you get one the him dead fuckin husband and fine your kids the same way and fuckin the ass and I hope as Black men don't to get even with your bitchass Voltaire P. Cook you prostitute is you in your prison, what you is Grrrr you don't like me you like pussy because me cannot please sexually so you enjoy pussy, what you is fucking the deputy clerks with that big dick you get if you get one you stole it from a dead man bitch I hope you stay in the wrong pussy and swallow the cement choke off it and die bitch off some pussy you ate bitch

EXHIBIT B

See *Mathews v. Eldridge*, 424 U.S. 319, 344, 96 S.Ct. 883, 907, 43 L.Ed.2d 12 (1978) Plaintiff claims at the same time he "preserved" both the appearance and reality of "fairness" for generating the feeling, so important for popular government, that justice has been done, see *Joint Anti-Rossist Committee v. Hanckel*, 341 U.S. 123, 172, 71 S.Ct. 624, 649, 95 L.Ed. 817 (1951) (Frankfurter, J., concurring, by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the "Orbit" is not "Predisposed" to find against him.)

Plaintiff is acting in prose and the Constitution requires fairness to rich and poor, represented and unrepresented. "See 28 U.S.C. 1915 (a), in the case of (BAR) Inspector Judge V. P. Cook's administrative decisions, providing personal bias to a Fleet individual's discrimination, compare *See Washington v. Davis*, 426 U.S. 229, 240, 96 S.Ct. 2040, 2047, 43 L.Ed.2d 397 (1976). The Due Process Clause of the Fifth Amendment contains an equal protection component prohibiting the United States from invidiously discriminating between individuals or groups. 44 Fed. 2040, 96 S.Ct. 2047. The decision made in this case is "unfair". The Butch is seen Inspector Judge V. P. Cook as a stepson both the need to be rape by a Black man... and the Co. home from the Court house... rape that both "brother."

In *see* the Constitutional afforded fundamental principles of fairness embodied in the Constitution require that governmental officials, both state and federal be held liable for damages when they violate a rule placed upon their conduct by the by the Constitution, even if they are acting pursuant to congressional authorization. See *Betz v. Economy*, 438 U.S. 478, 495, 98 S.Ct. 2894, 2895, 87 L.Ed.2d 895 (1978); see also *Litke v. Barranco*, 6 U.S. (2 Cranch) 170, 179, 2 L.Ed. 243 (1804) (holding ministerial worship commanded liable for unlawful seizing British Brigantine, even though seizure was pursuant to superior's instructions) See *CP #69* such order was not given by superior only.

see Word V Sholte 898 F.2d 261, 262 n.10 (10th Cir. 1995) holding that ALJ's specifically, the process of agency adjudication is currently structured so as to ~~ensure~~ assure that the ALJ's exercise independent judgment on the evidence before them free from pressures by the parties or other officials who are within agency. 74 Btz 438 U.S. at 513-519 98 S.Ct. 2914.

V. CONCLUSION

Wherefore Plaintiff moves this Honorable U.S. district court to strike defendants' motion. BE DENIED as a whole.

VII. CERTIFICATE OF SERVICE BY MAIL

Wherefore Plaintiff Willie Lee Jefferson hereby moves this Court and Certifies that on this 20th day of November, 2006, I placed in the Postal Office papers and copy, authentication to be mailed defendant attorney at following address:

GEORGE S. HANOS
ATTORNEY GENERAL
William S. Gaddis
Deputy Attorney General
100 North Casan City St.
Casan City, NV 89701-4717

Willie Lee Jefferson
~~Bitch Dies Goodbye With Halls of Justice~~
~~Long Enough to My Blows don't go back on~~
~~One Some one Pussy Bitch~~